

SECTION 230 STUDY

Study of Laws, Regulations, and Procedures at The General Accounting Office The Government Printing Office and The Library of Congress

**Prepared by the Board of Directors of the Office of Compliance
Pursuant to Section 230 of the Congressional Accountability Act of 1995
(PL 104-1)**

December 31, 1996

TABLE OF CONTENTS

<u>Tab</u>	<u>Page</u>
I. Executive Summary	i
II. Introduction	1
 III. GENERAL ACCOUNTING OFFICE	
Overview	7
General Accounting Office Personnel Act of 1980	9
Anti-Discrimination Laws	
C Title VII of the Civil Rights Act of 1964	13
C Age Discrimination in Employment Act of 1967	19
C Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973	21
C Equal Pay Act of 1963	25
Family and Medical Leave Act of 1963	31
Fair Labor Standards Act of 1938	39
Occupational Safety and Health Act	45
Labor-Management Relations -- Chapter 71, title 5, U.S.C.	53
Worker Adjustment and Retraining Notification Act	59
Uniformed Services Employment and Reemployment Rights Act of 1994	63
Employee Polygraph Protection Act	67
Americans with Disabilities Act of 1990 (Public Access Provisions)	69
Conclusions	75
 IV. GOVERNMENT PRINTING OFFICE	
Overview	79
Anti-Discrimination Laws	81
Family and Medical Leave Act of 1963	91

Fair Labor Standards Act of 1938	95
Occupational Safety and Health Act	99
Labor-Management Relations -- Chapter 71, title 5, U.S.C.	103
Worker Adjustment and Retraining Notification Act	105
Uniformed Services Employment and Reemployment Rights Act of 1994	109
Employee Polygraph Protection Act	113
Americans with Disabilities Act of 1990 (Public Access Provisions)	115
Conclusions	117

V. THE LIBRARY OF CONGRESS

Overview	121
Anti-Discrimination Laws	123
Family and Medical Leave Act of 1963	129
Fair Labor Standards Act of 1938	133
Occupational Safety and Health Act	139
Labor-Management Relations -- Chapter 71, title 5, U.S.C.	145
Worker Adjustment and Retraining Notification Act	147
Uniformed Services Employment and Reemployment Rights Act of 1994	149
Employee Polygraph Protection Act	153
Americans with Disabilities Act of 1990 (Public Access Provisions)	155
Conclusions	157

VI. APPENDICES

Appendix A -- Section 230 of the Congressional Accountability Act of 1995, as amended	A-1
Appendix B -- Notice of Request for Information	B-1
Appendix C -- Summary of Comments	C-1

EXECUTIVE SUMMARY

Section 230 of the Congressional Accountability Act of 1995 (CAA) mandates a study of the application of the laws listed in section 230(b) to the General Accounting Office (GAO), Government Printing Office (GPO) and Library of Congress (the Library) (referred to collectively as the instrumentalities).¹ Originally, section 230 directed the Administrative Conference of the United States (ACUS) to conduct the study but, in connection with the dissolution of ACUS in November of 1995, the law was amended to transfer responsibility for the study to the Board of Directors of the Office of Compliance.²

The study is organized into three sections which, as required by section 230(a), review the application of laws, regulations, and procedures to each instrumentality and, as required under section 230(c), evaluate whether these rights, protections, and procedures (including administrative and judicial relief) are “comprehensive and effective.” Because the CAA does not define the phrase “comprehensive and effective,” the Board has found guidance in two other sections of the statute, as well as the legislative history, in determining what the phrase “comprehensive and effective” should be understood to mean. These sources all use the CAA as their benchmark, suggesting that “comprehensive and effective” in the section 230 context is also best understood in comparison to the CAA.

Section 505 of the CAA directs the Judicial Conference of the United States to report on the application to the judicial branch of the eleven laws made applicable by the CAA, and to include any recommendations to grant to employees of the judicial branch rights, protections, procedures, and relief under those laws “that are comparable to those available to employees in the legislative branch under [the CAA].”³ This direction suggests a statutory interest in parity in the application of the eleven laws to agencies in the legislative and in the judicial branches. Additionally, section 102(b)(2) requires the Board to report on whether other provisions of laws relating to employment and public access, in addition to those incorporated into the CAA, should be made applicable to the legislative branch. That the CAA separately requires the Board to make proposals about extensions of the CAA suggests that, for these purposes, the CAA is the appropriate point of comparison.

The legislative history of section 230 also suggests using the CAA as the reference point. The section-by-section analysis placed in the record by Senator Grassley on behalf of himself and

¹ 2 U.S.C. 1371.

² Pub. L. No. 104-53, section 309, 109 Stat. 538 (November 19, 1995).

³ 2 U.S.C. 1434.

Senator Lieberman makes clear their expectation that the report would use the CAA to evaluate comprehensiveness and effectiveness: “This study should evaluate not only the extent to which employees are provided the rights and protections of the laws made applicable to Congress in this act. But also whether they are as comprehensive and effective as those provided under this act.”¹ Similar views were expressed by committees of the House and Senate during the 103rd Congress in reports on bills similar to the CAA.² Accordingly, for purposes of this 230(b) study, the Board has interpreted the phrase “comprehensive and effective” to mean comprehensive and effective when compared with the rights, protections, procedures, and relief afforded under the CAA.

In evaluating the comprehensiveness and effectiveness of the rights, protections and procedures available to the instrumentalities, the Board reviewed the following key aspects of the current statutory and regulatory regimes: (1) the nature of the substantive rights and protections afforded to employees, both as guaranteed by statute and as applied by rules and regulations; (2) the adequacy of administrative processes, including: (a) adequate enforcement mechanisms for monitoring compliance and detecting and correcting violations, and (b) a fair and independent mechanism for informally resolving or, if necessary, investigating, adjudicating, and appealing disputes; (3) the availability and adequacy of judicial processes and relief; and (4) the adequacy of any process for issuing substantive regulations specific to an instrumentality, including proposal and adoption by an independent regulatory authority under appropriate statutory criteria. The Board’s purpose in doing so is to fully explicate the issues of concern in section 230(c).

Section 230(c) also states that the study should “include recommendations for any improvements in regulations or legislation, including proposed regulatory or legislative language.” Section 230(c) originally required ACUS to “prepare and complete the study and recommendations” and then “submit the study and recommendations to the Board.”³ The Board, in turn, was to “transmit such study and recommendations (with the Board’s comments)” to the instrumentalities and the Congress.⁴ Thus, the Board’s role as commentator was, quite literally, parenthetical. After the dissolution of ACUS, Congress transferred the responsibility for conducting the study and making recommendations from ACUS to the Board. The Board’s institutional role, functions, and resources are vastly different from those of ACUS and, therefore, these differences must necessarily reshape the contours of the study.

For example, the chief function of ACUS, an advisory committee with a broad membership of

¹ 141 Cong. Rec. S627 (daily ed. Jan. 9, 1995).

² House Committee on House Administration, Report to accompany H.R. 4822, H.R. Rep. No. 103-650 Part 2, 103d Cong., 2d Sess. 19 (1994); Senate Committee on Governmental Affairs, Report to accompany H.R. 4822, S. Rep. No. 103-397, 103d Cong., 2d Sess. 26 (1994).

³ 2 U.S.C. 1371(d)(1).

⁴ 2 U.S.C. 1371(d)(2).

representatives from federal administrative agencies and the private sector, was to study administrative agencies and recommend improvements in their procedures. In contrast, the chief functions of the five-member Board are to issue legally binding regulations and to adjudicate disputes cognizable under the CAA.¹ With this transfer of authority, the Board is now called upon to make determinations as to what changes would constitute “improvements” in the statutory schemes governing the instrumentalities.

Such determinations would be made comparing the studied statutory and regulatory regimes with the regime established by the CAA. However, for the Board to issue recommendations as to the relative merits of the CAA or the statutory schemes in place at the instrumentalities at this early stage of its administration of the Act would be premature. Section 102(b) is instructive in this context. There, the Congress requires the Board to conduct a biennial review of federal employment law and “to report, with respect to provisions inapplicable to the legislative branch, whether such provisions should be made applicable to the legislative branch.”² The Board notes in its 102(b) report that the ongoing nature of the 102(b) reporting requirement argues for accomplishing statutory change on an incremental basis as the Board gains rulemaking and adjudicatory experience.

Because the Board reads its statutory mandate in the 102(b) study as informing its 230 study mandate, the Board has determined that its recommendations for change in the section 230 study should likewise proceed incrementally. Therefore, in the time available, consistent with executing its considerable rulemaking responsibilities in its first year of operation, the Board has gathered all the pertinent facts, elicited comments from interested parties, performed a searching analysis and come to conclusions as to comprehensiveness and effectiveness. The Board’s conclusions, which follow, will be the foundation for recommendations for change, if the Congress wishes the Board to proceed in either a further 230 study or in a future 102(b) report.

CONCLUSIONS

Overall

On the basis of the foregoing review and evaluation, the Board concludes that, overall, the rights, protections, procedures and relief afforded to employees at the GAO, the GPO and the Library under the twelve laws listed in section 230(b) are, in general, comprehensive and effective when compared to those afforded other legislative branch employees covered under the CAA. The rights, protections, procedures and relief applicable to the three instrumentalities are different in some respects from those afforded under the CAA, in part because employment at the instrumentalities is governed either directly under civil service statutes and regulations or under

¹ See sections 301, 304, 406 of the CAA, 2 U.S.C. 1381, 1384, 1406.

² 2 U.S.C. 1302(b)(2)(B).

laws and regulations modeled on civil service law. The comments from employees at the instrumentalities generally supported the retention or further application of civil service-type protections, rather than substantial replacement of existing protections with the CAA.

The CAA will extend rights and protections to fill most remaining gaps in coverage at the three instrumentalities, effective one year after this study is transmitted to Congress. However, certain gaps in coverage of GPO employees will remain because GPO is not covered under certain CAA provisions that will apply to GAO and the Library.

Substantive Rights

The Board found that the substantive provisions applicable at the instrumentalities are, in most respects, the same as, or similar to, those made applicable by the CAA and are at least as protective of employees. Moreover, at all three instrumentalities, employees have civil service protections that are outside the scope of the CAA. In certain areas, however, gaps in coverage were identified; for example, employees at GPO are not covered under either the Worker Adjustment and Retraining Notification Act or the Employee Polygraph Protection Act, and the CAA does not extend that protection to them in the future. And, the instrumentalities, like federal agencies generally, are authorized to allow employees to take compensatory time off instead of receiving overtime pay under a wider range of circumstances than is authorized under the CAA.

Adequacy of Administrative Processes

Conclusions with respect to the adequacy of administrative processes are more complicated. Congressional decisions made over many years in different statutes subject the instrumentalities to the authorities of certain executive branch agencies with respect to certain laws, but exempt them from executive branch authority with respect to others. The exemptions, which vary from one instrumentality to another, appear intended to preserve separation between legislative branch and executive branch functions and, in the case of GAO, to prevent conflicts that could arise from being regulated by the same civil service agencies that it audits. The CAA will establish additional avenues for administrative enforcement and relief by granting the Office of Compliance certain authorities in the areas of occupational safety and health and several other kinds of matters effective one year after transmittal of this study, applicable to GAO and the Library, but not to GPO.

The result is a patchwork of coverages and exemptions from the procedures afforded under civil service law and the authority of executive branch agencies, and from the procedures afforded under the CAA and the authority of the Office of Compliance. The procedural regimes at the three instrumentalities differ from one another, are different from the CAA, and are different from that in the executive branch. While it is difficult to make normative judgments about these differences, the multiplicity of regulatory schemes means that, in some cases, employees have more procedural options available, and in some cases, fewer. Additional procedural steps may afford opportunities to employees in some cases, but may also be more time-consuming and inefficient. Furthermore, the remaining exemptions from the authority of both executive branch agencies and the Office of Compliance leave gaps in the rights of employees at the

instrumentalities to have their complaints resolved through an administrative process external to, and independent from, the employing agency -- one of the key elements of comprehensiveness and effectiveness that is guaranteed by the CAA.

For example, Library employees may pursue a complaint of discrimination through procedures administered by the instrumentality, but if the Librarian of Congress denies the complaint, the employees have no right of appeal to the Equal Employment Opportunity Commission or any other administrative authority. In contrast, legislative branch employees covered by the CAA may pursue complaints of discrimination through administrative adjudication administered by the Office of Compliance with appeal to its Board of Directors. The Office of Compliance is an independent office external to, and independent from, the House or Senate or any covered instrumentality.

Adequacy of Judicial Processes and Relief

Judicial processes and relief are more limited at the instrumentalities than under the CAA, because civil service laws do not generally afford judicial remedies to the same extent as the CAA. The CAA will reduce this discrepancy by extending a private right of action for violations of several laws (the Family and Medical Leave Act, the Worker Adjustment and Retraining Notification Act, the Uniformed Services Employment and Reemployment Rights Act, and the Employee Polygraph Protection Act), to employees of GAO and the Library, though not of GPO, effective as of one year after transmittal of this study.

In certain other respects, however, the available judicial processes and relief will remain more limited at all three instrumentalities. For example, while employees under the CAA may request a jury trial in any situation where a private sector employee could do so, civil service laws applicable at the instrumentalities arguably authorize jury trials only in cases under Title VII or the Americans with Disabilities Act.

Adoption of Substantive Regulations

Instrumentalities in certain instances also have significant latitude to establish (and limit) substantive rights for their own employees. For example, in issuing an order to establish its labor-management program, GAO included limits on appropriate bargaining units and on the scope of bargaining that are more restrictive than the provisions in either the civil service statute governing labor-management relations in the federal service or the regulations adopted by the Board based on Federal Labor Relations Authority regulations. In this respect, substantive regulations are not proposed and adopted by an independent regulatory authority, which is an important element of the statutory scheme of the CAA.

These and additional conclusions are further explained at the end of the study sections on each of the three instrumentalities.

The analysis and conclusions in this study are being made solely for the purposes set forth in section 230 of the Congressional Accountability Act. Nothing in this study is intended or should be construed as a definitive interpretation of any factual or legal question by the Office of Compliance or its Board of Directors.

The Board of Directors of the Office of Compliance gratefully acknowledges the contributions of Lawrence B. Novey, who directed this study.

INTRODUCTION

Section 230 of the Congressional Accountability Act of 1995 (CAA) directs the Board of Directors (Board) of the Office of Compliance to conduct this study of the application of certain employment and antidiscrimination laws to the General Accounting Office (GAO), the Government Printing Office (GPO), and the Library of Congress (the Library). Section 230 requires the study, including recommendations, be prepared and transmitted to each of these instrumentalities and to the Congress by December 31, 1996.

Background

The CAA, the first law passed by the 104th Congress, applies eleven labor, employment and public access laws to the House of Representatives, the Senate, and the instrumentalities of the legislative branch. The laws made applicable by the CAA provide rights and protections in the areas of: employment discrimination (race, color, religion, sex, national origin, age, disability), overtime pay, minimum wage, and child labor, family and medical leave, occupational health and safety, labor-management relations, employee notification in case of office or plant closings or mass layoffs, employment and reemployment rights for those in the uniformed services, employee polygraph protection, and discrimination on the basis of disability in the provision of public services and public accommodations.

Statutory Mandate for the Study

Even before enactment of the CAA, legal rights and protections in many of these areas had applied to the three largest Congressional instrumentalities – GAO, GPO, and the Library. The CAA made certain modifications in the laws that already apply at these instrumentalities, and mandated a study of the laws, regulations, and procedures applicable to these instrumentalities and their employees.

As originally enacted, the CAA directed the Administrative Conference of the United States (ACUS) to conduct and submit the study to the Board, which would then transmit it, together with the Board's comments, to the Congress and the instrumentalities by December 31, 1996. However, Congress amended the CAA in November 1995 to transfer responsibility for conducting the study from ACUS to the Board.¹

Laws Specified for Study

The eleven laws that the CAA makes applicable are listed in the following chart, organized by the subject matter of the law. Since certain of the laws address more than one subject matter, different portions of these laws are entered separately on the chart.

¹ Section 309 of the Legislative Branch Appropriations Act, 1996, Pub. L. No. 104-53, 109 Stat. 538 (Nov. 19, 1995). The amendment was made effective if and when ACUS should cease to exist. When ACUS was dissolved in November of 1995, the Board became responsible for conducting the study.

LAWS MADE APPLICABLE BY THE CAA		
<i>Abbreviation</i>	<i>Law</i>	<i>Subject of Law</i>
EMPLOYMENT DISCRIMINATION		
Title VII	Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.)	Prohibits discrimination in employment because of race, color, religion, sex, or national origin.
ADEA	Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.)	Prohibits employment discrimination against persons 40 years of age and over .
ADA (employment provisions)	Title I of the Americans With Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)	Prohibits employment discrimination against qualified individuals with disabilities.
Rehabilitation Act	Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.)	Prohibits employment discrimination on the basis of handicapping condition.
EPA	Equal Pay Act (part of the FLSA) (29 U.S.C. 206(d))	Prohibits pay discrimination on the basis of sex.
EMPLOYEE BENEFITS, LABOR, HEALTH AND SAFETY		
FLSA	Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.)	Governs overtime pay, minimum wage, and child labor protection.
FMLA (title 29 provisions)	Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.)	Entitles eligible employees to take leave for certain family and medical reasons.
OSHA	Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.)	Protects the safety and health of employees from physical, chemical, and other hazards in their places of employment.
Chapter 71	Federal Service Labor-Management Relations statute (5 U.S.C. chapter 71)	Entitles individuals to form, join, or assist a labor organization, or to refrain from such activity, and to collectively bargain.
WARN Act	Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.)	Provides certain employees with notice in advance of office or plant closings or mass layoffs.
USERRA	Section 2 of the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. chapter 43)	Protects job rights of individuals who serve in the military and other uniformed services.
EPPA	Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001et seq.)	Restricts use of “lie detector” tests by employers.
DISCRIMINATION ON THE BASIS OF DISABILITY IN PROVIDING PUBLIC SERVICES AND PUBLIC ACCOMMODATIONS		
ADA (public access provisions)	Titles II and III of the Americans With Disabilities Act of 1990 (42 U.S.C. 12131 et seq.)	Prohibits discrimination against qualified individuals with disabilities in the provision of public services and accommodations.

In addition to the laws that the CAA makes applicable, section 230 also requires study of certain provisions of civil service law and the GAO Personnel Act, which may apply, supplement, or affect the rights and protections under the laws made applicable by the CAA. These laws are listed in the following chart.

OTHER RELATED LAWS		
<i>Abbreviation</i>	<i>Law</i>	<i>Subject of Law</i>
“Prohibited Personnel Practices” provisions	Section of civil service law on Prohibited Personnel Practices (5 U.S.C. 2302)	Prohibits certain employment practices, including unlawful discrimination on the basis of race, color, religion, sex, national origin, age, or handicapping condition, and retaliation for “whistleblowing” or for exercising appeal rights.
FMLA (title 5 provisions)	Subchapter of civil service law on Family and Medical Leave (5 U.S.C. 6381 et seq.), enacted by the FMLA	Entitles eligible employees to take leave for certain family and medical reasons.
“Premium Pay” provisions	Subchapter of civil service law on Premium Pay (5 U.S.C. 5541 et seq.)	Provides for overtime pay in addition to that under the FLSA, and provides certain exceptions to the requirements of the FLSA.
“Safety Programs” provisions	Section of civil service law on Safety Programs (5 U.S.C. 7902)	Requires the establishment of certain safety programs.
GAOPA	General Accounting Office Personnel Act of 1980 (31 U.S.C. 731 et seq.)	Requires a personnel management system at GAO, and establishes responsibilities and procedures for implementing the rights and protections under several employment laws.

Collection of Information

To compile the information needed in this study, the Board conducted a process of outreach and data collection and received full cooperation and assistance from the instrumentalities and their representatives, unions and other employee organizations, and individual employees.

Materials Collected by the Administrative Conference

Before responsibility for conducting the study was transferred to the Board in November of 1995, ACUS had begun the task of collecting the materials and information necessary for the study. The materials collected by ACUS included materials provided by the instrumentalities and an employee union describing the applicable laws, regulations, and procedures, and suggesting topics that should be emphasized in the study. When the Board assumed responsibility for the study, ACUS transferred these materials to the Office of Compliance.

Notice of Request for Information

On May 2, 1996, the Office of Compliance issued a Notice of Request for Information. This Notice described the nature and scope of the study, and requested that the three instrumentalities, their employees and employee representatives, and persons who use public services and public accommodations at the instrumentalities, as well as any other interested persons, provide information helpful to the Board in conducting the study.

The Notice (a copy of which is set forth in Appendix B) was sent to GAO, GPO, and the Library, to each union at GPA and the Library, and to each employee council at GAO. Included with the letters to these instrumentalities and organizations were copies of a poster summarizing the contents of the Notice and inviting interested persons to provide information for the study and to contact the Office of Compliance if further information was needed, which was circulated and posted at GAO and GPO and published in the Library *Gazette*, which is widely circulated at the Library. Because the coverage of ADA titles II and III includes non-employees who use public services and public accommodations, the Notice was also sent to several organizations with an interest in the accessibility of public services and public accommodations to persons with disabilities.

Consultations and Meetings

In response to the Notice of Request for Information, numerous calls were received from individual employees, unions, other employee organizations, and lawyers representing individual employees asking for further information, and meetings were held with those who requested meetings. Although a better understanding of the nature of employment at the instrumentalities was gained in these conversations and meetings, only the information and comments received in writing were included in the record upon which the study is based.

Each instrumentality chose to designate its General Counsel as the principal contact point for the study, and conversations and meetings were held with the General Counsel and other officials and staff within the instrumentalities to ascertain the instrumentalities' views as to what laws, regulations, and procedures are applicable, and to obtain copies of the regulations and procedures issued internally by the instrumentalities by which they apply and enforce the laws. These meetings and discussions provided useful insight and understanding, but, again, only the information and comments received in writing were included in the record upon which the study is based. Furthermore, in several instances, inquiries made in conducting the study prompted the instrumentalities to conclude that their regulations and procedures should be modified or updated, or that the timing of a planned modification or update in those regulations and procedures should be accelerated.

Materials Received

Submissions were received from the management of the instrumentalities, unions or other employee organizations, and individual employees. In total, 42 different commenters provided submissions – 15 different management officials at the instrumentalities, 9 unions and other

employee organizations, 17 individual employees, and one outside organization interested in public accessibility by persons with disabilities.

Disclosure of Initial Submissions and Notice of Opportunity to Respond

In mid-October, letters were sent to the instrumentalities, employee unions and other employee organizations, and organizations interested in accessibility to persons with disabilities instrumentalities, notifying them that the materials submitted for the study were available for public inspection, and inviting interested persons to submit, by November 15, 1996, any comments or materials in response to the earlier submissions. Additional submissions were received in response to this notice.

Public Documents

Materials submitted to the Office of Compliance for use in this study are available for inspection and copying upon request by any member of the public. However, the identity of individual employees who provided submissions for the study will be kept confidential. A summary of all comments received is provided in Appendix C.

Contents and Organization of the Study

The study is divided into three sections, one for each instrumentality. Each section first reviews the application of the laws at the instrumentality. This review is organized on a law-by-law basis, with anti-discrimination laws grouped together. The review includes the substantive rights afforded by statute and regulations and the administrative and judicial processes and enforcement mechanisms available for resolving disputes, remedying violations, and assuring compliance.

As required by section 230(c) of the CAA, the study evaluates “whether the rights, protections, and procedures, including administrative and judicial relief,” are “comprehensive and effective.” To conduct this evaluation, the study compares the rights, protections, and procedures at each of the instrumentalities with the corresponding rights, protections, and procedures afforded to covered employees under the CAA.

In making these comparisons, the study reviews key aspects of the current statutory and regulatory regimes:

- (a) the substantive rights and protections afforded to employees, both as guaranteed by statute and as applied by rules and regulations;
- (b) the adequacy of administrative processes, including: (i) adequate enforcement mechanisms for monitoring compliance and detecting and correcting violations, and (ii) a fair and independent mechanism for informally resolving or, if necessary, investigating, adjudicating, and appealing disputes;
- (c) the availability and adequacy of judicial processes and relief; and

- (d) the adequacy of any process for issuing substantive regulations specific to an instrumentality, including proposal and adoption by an independent regulatory authority under appropriate statutory criteria.

The study includes brief descriptions of the comments received that are relevant to the evaluations.

Future-Effective Changes Under the CAA

Several provisions of the CAA are to become effective at the instrumentalities one year after this study is transmitted to Congress: *(i)* GAO and the Library are included under the CAA provisions that apply the rights and protections of EPPA, WARN, USERRA, and OSHA; *(ii)* GAO and the Library are removed from coverage by the Title 5 provisions of the FMLA, which ordinarily apply in the Federal civil service, and are placed under the coverage of the Title 29 FMLA provisions, which ordinarily apply in the private sector; and *(iii)* the remedies and procedures in section 717 of Title VII¹ will apply for claims under public access provisions of the ADA with respect to any of the three instrumentalities. To enable Congress to review these delayed statutory provisions during the year after the study is transmitted, the study includes evaluation of these statutory provisions with delayed effective dates.

Finally, at the end of each of the three sections of the study, the Board sets forth its conclusions drawn from the evaluation of rights, protections, and procedures at the instrumentalities.

¹ 29 U.S.C. 2000e-16.